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8                   UNITED STATES DISTRICT COURT  
9                   WESTERN DISTRICT OF WASHINGTON  
10                  AT SEATTLE

11                  ROBERT BENNETT, MEG  
12                  BENNETT,

13                  Plaintiffs,

14                  v.

15                  HOMESITE INSURANCE  
16                  COMPANY,

17                  Defendant.

18                  CASE NO. C21-1422 MJP  
19                  ORDER DENYING MOTION TO  
20                  STAY

21                  This matter comes before the Court on Defendant's Motion to Stay. (Dkt. No. 10.)

22                  Having reviewed the Motion, Plaintiffs' Opposition (Dkt. No. 13), the Reply (Dkt. No. 14), and  
23                  all supporting materials, the Court DENIES the Motion.

24                  **BACKGROUND**

25                  Plaintiffs Meg and Robert Bennett have sued their insurer Defendant Homesite Insurance  
26                  Company. Plaintiffs allege Homesite breached the terms of the insurance policy by refusing to  
27                  pay benefits owed for fire-related damage to their home and personal property and for not paying  
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1 additional living expenses. (Compl. ¶¶ 3:1-3:14 (Dkt. No. 1-1).) Homesite has agreed that the  
 2 damage to Plaintiffs' home is covered under the policy, but disagrees as to the amount of  
 3 coverage. (*Id.* ¶ 3:5.) Plaintiffs filed suit, asserting claims for breach of contract, bad faith, and  
 4 violations of the Consumer Protection Act. Homesite asks the Court to stay the case pending the  
 5 completion of the appraisal process that Plaintiffs commenced before filing suit. (Dkt. No. 11.)

## 6 ANALYSIS

7       Homesite has failed to convince the Court that it should stay this matter pending  
 8 appraisal.

9       “A district court has discretionary power to stay proceedings in its own court under  
 10 Landis v. North American Co., 299 U.S. 248, 254, 57 S.Ct. 163, 81 L.Ed. 153 (1936).” Lockyer  
 11 v. Mirant Corp., 398 F.3d 1098, 1109 (9th Cir. 2005). “[A party seeking] a stay must make out a  
 12 clear case of hardship or inequity in being required to go forward, if there is even a fair  
 13 possibility that the stay for which he prays will work damage to some one else.” Landis, 299  
 14 U.S. at 255. “Where it is proposed that a pending proceeding be stayed, the competing interests  
 15 which will be affected by the granting or refusal to grant a stay must be weighed.” CMAX, Inc.  
 16 v. Hall, 300 F.2d 265, 268 (9th Cir. 1962). Those interests include “the possible damage which  
 17 may result from the granting of a stay, the hardship or inequity which a party may suffer in being  
 18 required to go forward, and the orderly course of justice measured in terms of the simplifying or  
 19 complicating of issues, proof, and questions of law which could be expected to result from a  
 20 stay.” Id.

21       Homesite has failed to demonstrate that the balance of interests weigh in favor of a stay  
 22 pending appraisal. While the appraisal process will likely resolve the amount of coverage at  
 23 issue, Homesite has not identified any hardship or inequity that it faces absent a stay. In its  
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1 motion, Homesite argues that a stay would limit discovery costs and “unnecessary expenditure of  
 2 judicial resources.” (Mot. at 6.) But “being required to defend a suit [if the stay is vacated], does  
 3 not constitute a ‘clear case of hardship or inequity’ within the meaning of Landis.” Dependable  
 4 Highway Exp., Inc. v. Navigators Ins. Co., 498 F.3d 1059, 1066 (9th Cir. 2007) (quoting  
 5 Lockyear, 398 F.3d at 1112.) Nor is the Court convinced that a stay would save judicial  
 6 resources sufficient to justify its issuance. In its Reply, Homesite presents a new theory of  
 7 hardship and inequity: if Plaintiffs obtain discovery into Homesite’s claim file, they will use that  
 8 information to “bias the appraisal process.” (Reply at 5.) But this is pure speculation based on  
 9 Homesite’s assumptions, which does not evidence a “clear case of hardship or inequity.” (See id.  
 10 (“Homesite must assume. . .”).) And Homesite has not identified any materials that could “bias”  
 11 the appraisal process. In contrast, Plaintiffs have identified a fair possibility of harm if the Court  
 12 were to enter a stay. Homesite concedes that it has materials relevant to the appraisal process that  
 13 would otherwise not be provided to Plaintiffs through discovery if the Court stays this matter. In  
 14 its Reply, Homesite admits that it has “offer[ed] . . . to allow some discovery on those issues  
 15 relevant to the appraisal” but only if Plaintiffs agreed to a stay. (Reply at 5.) So if the Court were  
 16 to grant the stay, then Plaintiffs would not obtain these materials relevant to the appraisal  
 17 process. This presents more than a “fair possibility” that the stay will harm Plaintiffs. See Landis,  
 18 299 U.S. at 255. And a stay would unnecessarily delay Plaintiffs’ efforts to conduct discovery  
 19 into their extra-contractual claims that the appraisal process will not resolve. Homesite has failed  
 20 to meet its burden of showing a “clear case of hardship or inequity” absent a stay, and there  
 21 exists a “fair possibility” the stay will prejudice and harm Plaintiffs. See Landis, 299 U.S. at 255.  
 22 This warrants denial of the Motion.

The Court also notes that the cases on which Homesite relies do not justify imposition of a stay in this matter. (See Mot. at 4-5 (citing Dentists Ins. Co. v. Yousefian, No. C20-1076RSL, 2020 WL 8642137 (W.D. Wash. Nov. 16, 2020); Meier v. Travelers Home & Marine Ins. Co., No. C15-0022RSL, 2015 WL 11571005 (W.D. Wash. Nov. 23, 2015); Keesling v. W. Fire Ins. Co. of Fort Scott, Kansas, 10 Wn. App. 841 (1974)).) In both Yousefian and Meier, the appraisal process could have resolved the entire dispute between the parties. The same cannot be said here. The appraisal process could well leave unresolved Plaintiffs' contractual claim for additional living expenses, and it will not resolve their extra-contractual claims. (See Reply at 3 (admitting that "the appraisal . . . may include the [additional living expenses]," but not necessarily (emphasis added).) Similarly, Keesling does not support issuance of a stay. That case involved the appeal of a trial court's determination that the insurer had not waived an appraisal provision in the insurance policy. The appellate court affirmed the trial court's decision and concluded that on remand, the trial court should stay the case pending appraisal rather than dismiss it. See Keesling, 10 Wn. App. at 850. That decision did not consider the Landis standard and it contains no reasoning that would support issuing a stay on the record before the Court. These three cases do not convince the Court that a stay should be granted.

## CONCLUSION

18        Homesite has failed to meet its burden to demonstrate that the competing interests here  
19 warrant a stay of the case pending appraisal. Homesite has not identified a clear case of harm that  
20 it faces absent a stay and there is more than a fair possibility that the stay would prejudice  
21 Plaintiffs during the appraisal process and unnecessarily delay litigation of the extracontractual  
22 claims they pursue. Having considered the competing factors relevant to Homesite’s request to  
23 stay, the Court DENIES the Motion.

The clerk is ordered to provide copies of this order to all counsel.

Dated December 15, 2021.

Wesley Pekom

Marsha J. Pechman  
United States Senior District Judge